

AMENDED IN SENATE MAY 28, 2009

AMENDED IN SENATE APRIL 30, 2009

AMENDED IN SENATE APRIL 13, 2009

SENATE BILL

No. 406

Introduced by Senator DeSaulnier

February 26, 2009

An act to amend Section 65040.6 of, and to add Section 65083 to, the Government Code, to amend Section 75125 of the Public Resources Code, and to add Section 9250.6 to the Vehicle Code, relating to land use.

LEGISLATIVE COUNSEL'S DIGEST

SB 406, as amended, DeSaulnier. Land use: environmental quality.

The Planning and Zoning Law establishes the Planning Advisory and Assistance Council in the Office of Planning and Research, and prescribes the membership and duties of the council. Existing law authorizes the Department of Motor Vehicles to collect a surcharge imposed on vehicle registration fees by ordinance or resolution of a local entity.

This bill would change the designated membership, as specified, of the Planning Advisory and Assistance Council and would require that the council work with the Strategic Growth Council, regional agencies, and cities and counties to facilitate the development and implementation of sustainable community strategies or regional blueprint projects, as specified. The bill would also require the council to report to the Legislature on specified regional performance measures and on the manner in which state agencies are implementing the 5-year infrastructure plan, as specified. The bill would authorize a municipal

planning organization, as defined, a council of governments, as defined, or a county transportation commission and a subregional council of governments jointly preparing a subregional sustainable communities strategy to adopt a resolution to impose a surcharge of \$1 or \$2 on motor vehicles registered to an owner with an address in the entity's or entities' jurisdiction. The surcharge would be required to apply to an original vehicle registration occurring on or after 6 months following the adoption of the resolution, as specified, and to a renewal of registration with an expiration date on or after that 6-month period. The surcharge would be collected by the Department of Motor Vehicles and, after deducting its administrative costs, would be transmitted to the entity or entities imposing the surcharge. *The bill would require the metropolitan planning organization, the council of governments, or the county transportation commission and the subregional council of governments jointly preparing a subregional sustainable communities strategy to contract with the department to pay for the initial setup and programming costs identified by the department, but would also require these costs to be reimbursed from surcharge revenues collected.* The bill would require that the surcharge revenue that exceeds \$1—~~be expended to develop and implement in specified jurisdictions to be used to provide grants to cities, counties, and cities and counties for planning and projects related to the implementation of a regional blueprint plan,~~ and would specify that 5% of all the surcharge revenue be transmitted to the council for performance of specified functions. The bill would provide that the council is to perform specified new functions only when the council has received sufficient revenue from this source.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. (a) The Legislature finds and declares the
- 2 following:
- 3 (1) Uncoordinated and unplanned growth together with a lack
- 4 of common goals to effect the public's interest in the conservation
- 5 and wise use of our lands pose a threat to the environment,
- 6 sustainable economic development, and the health, safety, and
- 7 high quality of life enjoyed by residents of this state.
- 8 (2) The enactment of Senate Bill 375 of the 2007–08 Regular
- 9 Session (Chapter 728 of the Statutes of 2008) and the establishment

1 of requirements for regional transportation plans to address
2 greenhouse gases can only be successfully implemented if regional
3 and local governments have the tools they need to collaboratively
4 plan for the type of growth that can achieve these goals, and if that
5 collaborative planning is coordinated with the efforts of the
6 Governor's Strategic Growth Council and other state agencies as
7 required by the enactment of Senate Bill 732 of the 2007–08
8 Regular Session (Chapter 729 of the Statutes of 2008).

9 (3) Therefore, it is in the public interest that state residents,
10 communities, local governments, and the private sector cooperate
11 and coordinate with one another in comprehensive, sustainable
12 land use planning.

13 (b) It is the intent of the Legislature to update the duties and
14 composition of the Planning Advisory and Assistance Council to
15 assist in the state's land use planning processes by providing
16 funding to support the development and implementation for
17 regional blueprints and related planning and to work with state
18 agencies providing funding for resource protection and local
19 infrastructure to facilitate coordination between state planning and
20 funding decisions and regional blueprints.

21 SEC. 2. Section 65040.6 of the Government Code is amended
22 to read:

23 65040.6. (a) The Planning Advisory and Assistance Council
24 is hereby created within the office, the membership of which shall
25 be as follows: three city representatives; three county
26 representatives; seven representatives of regional planning
27 organizations; one member of the State Air Resources Board; one
28 member of the California Transportation Commission; one member
29 of the State Energy Resource Conservation and Development
30 Commission; one member appointed by the Speaker of Assembly;
31 one member appointed by the Senate Committee on Rules; and
32 one representative of Indian tribes and bands which have
33 reservations or rancherias within California. The city and county
34 representatives appointed pursuant to this subdivision shall be
35 selected by the director from nominees submitted by the League
36 of California Cities and by the California State Association of
37 Counties. Representatives of regional planning organizations
38 appointed pursuant to this subdivision shall be selected by the
39 director from nominees submitted by the regional planning
40 organizations set forth in paragraphs (1) to (5), inclusive, of

1 subdivision (b) and from nominees submitted by the California
2 Association of Councils of Governments for the representatives
3 of organizations set forth in paragraphs (6) and (7) of subdivision
4 (b). The representative of Indian tribes and bands shall be a member
5 of one tribe or band, and shall be selected by the director.

6 Appointment to the advisory council shall be for a term of two
7 years, provided that the members of the first council shall classify
8 themselves by lot so that one-half shall serve an initial term of one
9 year and one-half shall serve an initial term of two years. Vacancies
10 shall be filled in the same manner provided for the original
11 appointment.

12 (b) Seven of the council's members shall be from the governing
13 body of each of the following:

14 (1) The Southern California Association of Governments.

15 (2) The Metropolitan Transportation Commission or the
16 Association of Bay Area Governments. The person appointed to
17 the council pursuant to this paragraph shall be a member of the
18 governing body for both the Metropolitan Transportation
19 Commission and the Association of Bay Area Governments.

20 (3) The San Diego Association of Governments.

21 (4) The Sacramento Area Council of Governments.

22 (5) The San Joaquin Valley Regional Policy Council.

23 (6) A metropolitan planning organization or council of
24 governments that is not identified in paragraphs (1) to (5),
25 inclusive.

26 (7) A regional transportation planning agency, as defined in
27 Section 65080, that is neither a metropolitan planning organization
28 nor a council of governments.

29 (c) The council shall provide such advice as may be necessary
30 to assist the office in discharging the requirements of Sections
31 65040 to 65040.4, inclusive. In particular, the council shall:

32 (1) Assist the office in the preparation of the state long-range
33 goals and policies, in the manner specified in subdivision (a) of
34 Section 65040.

35 (2) Evaluate the planning functions of the various state agencies
36 involved in planning, in the manner specified in subdivision (c)
37 of Section 65040.

38 (3) Make appropriate decisions and provide such advice and
39 assistance as may be required by federal statute or regulation in
40 connection with any federal program administered by the office.

1 (4) Work with the Strategic Growth Council, created pursuant
2 to Section 75121 of the Public Resources Code, regional agencies,
3 such as metropolitan planning organizations or councils of
4 governments, and with cities and counties to facilitate the
5 implementation of regional blueprint projects.

6 (5) Develop recommendations to the Strategic Growth Council,
7 created pursuant to Section 75121 of the Public Resources Code,
8 the Department of General Services, the State Allocation Board,
9 the Department of Housing and Community Development, the
10 California Transportation Commission, the California Housing
11 and Finance Agency, and any other state agencies in order to
12 facilitate coordination between regional blueprint plans and state
13 growth and infrastructure funding plans.

14 (6) Receive reports, including, but not limited to, a copy of the
15 five-year infrastructure plan described in Section 13102.

16 (7) Report to the Legislature, in consultation and coordination
17 with the Strategic Growth Council, created pursuant to Section
18 75121 of the Public Resources Code, on the manner in which state
19 agencies are implementing the requirements of Chapter 1016 of
20 the Statutes of 2002.

21 (8) Report to the Legislature on regional performance measures,
22 evaluating the progress of each region of the state in improving
23 results for its residents in employment, environmental protection,
24 education, housing, mobility, and other criteria as determined by
25 the council. The council shall provide the Legislature with updates
26 to the report periodically, as the council determines is required.

27 (d) The council shall meet on call of the director of the office,
28 who shall convene at least two council meetings during each year.

29 (e) Council members shall serve without compensation, but
30 they may be reimbursed for actual expenses incurred in connection
31 with their duties.

32 (f) The council shall begin to perform the functions and other
33 duties set forth in paragraphs (4) to (8), inclusive, of subdivision
34 (c) when sufficient funding, as determined by the council, exists
35 from the revenue transmitted to it by metropolitan planning
36 organizations, councils of governments, or county transportation
37 commissions and subregional councils of governments jointly
38 preparing subregional sustainable communities strategies pursuant
39 to subdivision (b) of Section 65083.

1 SEC. 3. Section 65083 is added to the Government Code, to
2 read:

3 65083. (a) A metropolitan planning organization, as defined
4 in Section 134 of Title 23 of the United States Code, a council of
5 governments, as defined in Section 65582, or a county
6 transportation commission and a subregional council of
7 governments jointly preparing a subregional sustainable
8 communities strategy pursuant to subparagraph (C) of paragraph
9 (2) of subdivision (b) of Section 65080 may impose a surcharge
10 of one dollar (\$1) or two dollars (\$2) pursuant to Section 9250.6
11 of the Vehicle Code, on a motor vehicle registered to an owner
12 with an address in its jurisdiction. The surcharge may be imposed
13 only if the metropolitan planning organization, the council of
14 governments, or a county transportation commission and a
15 subregional council of governments jointly preparing a subregional
16 sustainable communities strategy adopts a resolution authorizing
17 the surcharge. A resolution by the Metropolitan Transportation
18 Commission or the Association of Bay Area Governments to
19 impose the surcharge shall be jointly adopted by resolution of both
20 of those entities, and the revenue from the surcharge shall be
21 divided in accordance with an agreement between these two
22 entities. A resolution by a county transportation commission or a
23 subregional council of governments within the jurisdiction of the
24 Southern California Association of Governments shall be jointly
25 adopted by resolution of both of the entities, and the revenue from
26 the surcharge shall be divided in accordance with an agreement
27 between the two entities. The surcharge shall apply to an original
28 vehicle registration occurring on or after six months following the
29 adoption of the resolution by the metropolitan planning
30 organization, council of governments, or a county transportation
31 commission and a subregional council of governments jointly
32 preparing a sustainable communities strategy and to a renewal of
33 registration with an expiration date on or after that six-month
34 period.

35 (b) All revenue received pursuant to this section shall be used
36 by the metropolitan planning organization, the council of
37 governments, or a county transportation commission and a
38 subregional council of governments jointly preparing a subregional
39 sustainable communities strategy solely to develop and implement
40 a sustainable communities strategy or a regional blueprint plan to

1 identify land use strategies to reduce the use of motor vehicles in
2 its jurisdiction and thereby reduce emissions into the environment
3 from motor vehicles. If the surcharge exceeds one dollar (\$1), all
4 amounts above one dollar (\$1) in a jurisdiction with a population
5 greater than 300,000 shall be used to provide grants to cities,
6 counties, and cities and counties for planning and projects related
7 to the implementation of a regional blueprint plan. The
8 metropolitan planning organization, the council of governments,
9 or a county transportation commission and a subregional council
10 of governments jointly preparing a subregional sustainable
11 communities strategy shall transmit 5 percent of all surcharge
12 revenue it receives pursuant to Section 9250.6 of the Vehicle Code
13 to the Planning Advisory and Assistance Council within the Office
14 of Planning and Research to perform the functions specified in
15 subdivision (f) of Section 65040.6.

16 (c) For purposes of this section, a sustainable communities
17 strategy and an alternative planning strategy shall both be
18 considered to be a regional blueprint.

19 SEC. 4. Section 75125 of the Public Resources Code is
20 amended to read:

21 75125. The council shall do all of the following:

22 (a) Identify and review activities and funding programs of
23 member state agencies that may be coordinated to improve air and
24 water quality, improve natural resource protection, increase the
25 availability of affordable housing, improve transportation, meet
26 the goals of the California Global Warming Solutions Act of 2006
27 (Division 25.5 (commencing with Section 38500) of the Health
28 and Safety Code), encourage sustainable land use planning, and
29 revitalize urban and community centers in a sustainable manner.
30 At a minimum, the council shall review and comment on the
31 five-year infrastructure plan developed pursuant to Article 2
32 (commencing with Section 13100) of Chapter 2 of Part 3 of
33 Division 3 of the Government Code and the State Environmental
34 Goals and Policy Report developed pursuant to Section 65041 of
35 the Government Code.

36 (b) Recommend policies and investment strategies and priorities
37 to the Governor, the Legislature, and to appropriate state agencies
38 to encourage the development of sustainable communities, such
39 as those communities that promote equity, strengthen the economy,

1 protect the environment, and promote public health and safety,
2 and is consistent with subdivisions (a) and (c) of Section 75065.

3 (c) Provide, fund, and distribute data and information to local
4 governments and regional agencies that will assist in developing
5 and planning sustainable communities.

6 (d) Manage and award grants and loans to support the planning
7 and development of sustainable communities, pursuant to Sections
8 75127, 75128, and 75129. To implement this subdivision, the
9 council may do all of the following:

10 (1) Develop guidelines for awarding financial assistance,
11 including criteria for eligibility and additional consideration.

12 (2) Develop criteria for determining the amount of financial
13 assistance to be awarded. The council shall award a revolving loan
14 to an applicant for a planning project, unless the council determines
15 that the applicant lacks the fiscal capacity to carry out the project
16 without a grant. The council may establish criteria that would allow
17 the applicant to illustrate an ongoing commitment of financial
18 resources to ensure the completion of the proposed plan or project.

19 (3) Provide for payments of interest on loans made pursuant to
20 this article. The rate of interest shall not exceed the rate earned by
21 the Pooled Money Investment Board.

22 (4) Provide for the time period for repaying a loan made
23 pursuant to this article.

24 (5) Provide for the recovery of funds from an applicant that fails
25 to complete the project for which financial assistance was awarded.
26 The council shall direct the State Controller to recover funds by
27 any available means.

28 (6) Provide technical assistance for application preparation.

29 (7) Designate a state agency or department to administer
30 technical and financial assistance programs for the disbursing of
31 grants and loans to support the planning and development of
32 sustainable communities, pursuant to Sections 75127, 75128, and
33 75129.

34 (e) No later than July 1, 2010, and every year thereafter, provide
35 a report to the Legislature that shall include, but is not limited to,
36 all of the following:

37 (1) A list of applicants for financial assistance.

38 (2) Identification of which applications were approved.

39 (3) The amounts awarded for each approved application.

40 (4) The remaining balance of available funds.

1 (5) A report on the proposed or ongoing management of each
2 funded project.

3 (6) Any additional minimum requirements and priorities for a
4 project or plan proposed in a grant or loan application developed
5 and adopted by the council pursuant to subdivision (c) of Section
6 75216.

7 (7) In making recommendations pursuant to subdivisions (a)
8 and (b) and in providing data and information pursuant to
9 subdivision (c), the council shall consult with and coordinate its
10 recommendations with the Planning Advisory and Assistance
11 Council created pursuant to Section 65040.6 of the Government
12 Code.

13 SEC. 5. Section 9250.6 is added to the Vehicle Code, to read:

14 9250.6. (a) In addition to any other fees specified in this code,
15 the Health and Safety Code, and the Revenue and Taxation Code,
16 a surcharge of one dollar (\$1) or two dollars (\$2) may be imposed
17 by a metropolitan planning organization, a council of governments,
18 or a county transportation commission and a subregional council
19 of governments jointly preparing a subregional sustainable
20 communities strategy pursuant to subparagraph (C) of paragraph
21 (2) of subdivision (b) of Section 65080, and shall be paid to the
22 department as follows:

23 (1) Upon initial registration on or after the date the department
24 begins collecting the fee for a motor vehicle not previously
25 registered in this state that is registered to an owner with an address
26 in the jurisdiction of the metropolitan planning organization, the
27 council of governments, or the county transportation commission
28 and the subregional council of governments jointly preparing a
29 subregional sustainable communities strategy requesting imposition
30 of the surcharge.

31 (2) Upon renewal of registration of a motor vehicle to an owner
32 with an address in the jurisdiction of the metropolitan planning
33 organization, the council of governments, or the county
34 transportation commission and the subregional council of
35 governments jointly preparing a subregional sustainable
36 communities strategy requesting imposition of the surcharge for
37 which the registration period expires after the date the department
38 begins collecting the fee.

39 (b) Prior to the adoption of a surcharge pursuant to this section,
40 the metropolitan planning organization, the council of governments,

1 or the county transportation commission and the subregional
2 council of governments jointly preparing a subregional sustainable
3 communities strategy shall approve the imposition of the surcharge
4 through the adoption of a resolution, as specified in Section 65083
5 of the Government Code.

6 (c) The metropolitan planning organization, *the* council of
7 governments, or the county transportation commission and the
8 subregional council of governments jointly preparing a subregional
9 sustainable communities strategy shall pay for the costs identified
10 by the department to administer the surcharge. After deducting
11 those costs, the department shall transmit the surcharge revenue
12 quarterly to the metropolitan planning organization, the council
13 of governments, or the county transportation commission and the
14 subregional council of governments jointly preparing a subregional
15 sustainable communities strategy.

16 (d) (1) *The metropolitan planning organization, the council of*
17 *governments, or the county transportation commission and the*
18 *subregional council of governments jointly preparing a subregional*
19 *sustainable communities strategy shall contract with the*
20 *department to pay for the initial setup and programming costs*
21 *identified by the department.*

22 (2) *These initial setup and programming costs shall be*
23 *reimbursed to the metropolitan planning organization, the council*
24 *of governments, or the county transportation commission and the*
25 *subregional council of governments jointly preparing a subregional*
26 *sustainable communities strategy from surcharge revenues*
27 *collected.*